

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 3:19-cr-171

vs.

NATHAN GODDARD *et al.*,

District Judge Michael J. Newman

Defendants.

**ORDER REQUIRING DEFENDANT’S COUNSEL TO SUBMIT A MOTION AND
MEMORANDUM JUSTIFYING HIS CONTINUED APPOINTMENT AS COUNSEL**

This case comes before the Court after a status conference on October 6, 2021. The Government recently indicated its intent not to seek the death penalty in this case. Doc. 111. Previously, the Honorable Thomas M. Rose, who this case was formerly assigned to before the Government’s change in position, found that Donald Malarcik was learned within the meaning of the CJA and appointed him as counsel for Defendant Nathan Goddard. Doc. No. 20; 18 U.S.C. § 3005. However, “when the government decides not to seek the death penalty, defendants no longer have a statutory right to a second court-appointed counsel who is learned in capital cases, because the matter is no longer a capital case within the meaning of § 3005.” *United States v. Ledbetter*, 107 F. Supp. 3d 849, 852 (S.D. Ohio 2015) (collecting cases). Section 630.30.10–.20 of the Guidelines for Administering the CJA and Related Statutes indicate that the Court may exercise discretion to reduce the number of appropriate counsel. Therefore, the Court **ORDERS** Defendant’s counsel Donald Malarcik to submit to the Court a motion and memorandum **by**

October 8, 2021 justifying his continued appointment in light of the Government's change in position.

IT IS SO ORDERED.

October 6, 2021

s/Michael J. Newman

Hon. Michael J. Newman
United States District Judge